

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS
March 6, 2003**

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, March 6, 2003, beginning at 2:00 P.M. at the Town of Warrenton Police Department, 333 Carriage House Lane, Warrenton, Virginia. Members present were Mrs. Margaret Mailler, Chairperson; Mr. Eugene Lofdahl, Vice Chairman; Mr. John Meadows, Secretary; Mr. James Van Luven; Mr. Maximilian A. Tufts, Jr.; Mrs. Sonja Addison and Mr. Mark Rohrbaugh. Also present were Mrs. Tracy Gallehr, Assistant County Attorney; Ms. Kimberley Johnson, Zoning Administrator; Mr. Fred Hodge, Assistant Zoning Administrator; Ms. Holly Meade, Planner; and Ms. Nancy Albert, Office Associate III.

MINUTES: On motion made by Mr. Meadows and seconded by Mr. Tufts the February minutes were approved as submitted. The motion carried 6 Ayes, 1 Abstain.

LETTERS OF NOTIFICATIONS & PUBLIC NOTICE: The Assistant Zoning Administrator stated that to the best of his knowledge, the cases before the Board of Zoning Appeals for a public hearing had been properly advertised, posted, and letters of notification sent to adjoining property owners. Ms. Albert read the Public Hearing Protocol.

SPECIAL PERMIT #50651 MARY C. DECARLO (OWNER) & DECARLO ENTERPRISES, INC. (LESSEE)

Applicants are requesting special permit approval to store propane fuel on 25 acres of 132.01 acres. The subject property is identified as PIN #6898-18-1549, located at 11271 Remington Road, Lee District, Bealeton, Virginia.

Mr. Hodge reviewed the staff report, a copy of which is attached to and made a part of the minutes. He stated the public hearing for this item was closed at the January 2, 2003 meeting.

Mr. Lofdahl asked to discuss the draft conditions, a copy of which is attached to and made a part of the minutes. The Board proceeded to review each proposed condition.

Mr. Lofdahl suggested amending the condition regarding hours to allow tractor trailers to make deliveries up to midnight, rather than 6:00 p.m.

Mr. Lofdahl questioned why a 10' fence height was being proposed rather than 6.' Mr. Meadows indicated it was an additional safety measure, which the BZA is allowed to impose.

Mr. Daniel O'Connell, attorney for DeCarlo, presented the applicant's proposed revised conditions, a copy of which is attached to and made a part of the minutes.

Mr. DeCarlo asked that the gates not be required to be connected to the central alarm, as this would likely create false alarms. There was discussion clarifying that there would be multiple gates. The Board agreed that the gates should be secured, but not necessarily alarmed.

Mr. Meadows asked whether the proposed condition on propane detectors was intended to require detectors over the entire parcel, or only on the portion of the site where the transfer area was located. It was agreed that “site” meant “transfer area” for purposes of the propane detectors.

Mr. Meadows asked who would bring the violation if one occurred and Mr. Tufts stated the Fire Chief. Mrs. Gallehr stated that the condition would result in any violation of the fire prevention code, which results in criminal charges against the applicant, also being a violation of the special permit.

All agreed that consultant must be “retained” rather than “hired.”

Mr. Meadows elaborated that the required screening should include two staggered rows of mixed cypress and white pines for screening.

There was discussion as to whether the number of tanks should be limited to 50 or 100. Mr. Meadows stated he would like to allow the applicant 50 tanks, and could reapply at a later date to expand. All agreed.

Mr. Meadows stated the literature from Mr. Stannard indicated rail cars could travel up to 100 feet in a derailment, and therefore suggested a 150’ buffer. Mr. O’Connell suggested the buffer be measured from the centerline of the railroad.

There was discussion as to the appropriate point for requiring approval of the emergency preparedness plan, in order to allow the applicant to continue to work with emergency services on a plan as they go through the process. Mr. VanLuven stated the approval should be tied to the commissioning of the facility. Mrs. Bowen suggested the approval be tied to some type of inspection or County approval. Mr. Lofdahl suggested before filling of the first tank. Mr. Hodge stated ‘prior to the issuance of the certificate of occupancy by the building official’ would be a good a deadline where the County does an inspection. The Board agreed on this time-frame for approval of the plan.

Mr. Lofdahl suggested including NFPA 58 as adopted by the Commonwealth of Virginia as a standard for construction.

Mr. Meadows specified the type of propane detectors to be provided as “dual range combustible gas detectors calibrated for propane vapor within the ranges of 0 to LFL and 0% to 100%”.

Mr. Lofdahl proposed a new condition requiring the applicant to call the Norfolk Southern telephone number to obtain the train schedule information prior to the arrival or departure of any truck over 100’ in length.

On motion made by Mr. Meadows and seconded by Mr. Lofdahl, in application No. 50857, it was moved to approve the special permit based on the Board's findings, after due notice and hearing, as provided by the Code of Virginia Section 15.2-2204 and Section 5-009 of the Fauquier County Code:

1. The proposed use will not adversely affect the use or development of neighboring properties.
2. It is in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does conform to the general standards set forth in Section 5-006(1) through (9) of the Zoning Ordinance of Fauquier County, which sections are incorporated in this Motion as if fully set forth.
3. The use will be compatible with the neighborhood in which it is to be located.
4. The application does comply with the specific standards which apply to the use in question.
5. The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance: (Conditions including, but not limited to, those recited in Section 5-007 A-L of the Zoning Ordinance)
 - (a) A minimum of 60% of the delivery of propane to the site over the period of any calendar year shall be accomplished via railroad siding. No more than 40% of the delivery of propane over the period of any calendar year shall be by tractor trailer. All tractor trailers must enter and exit the site between the hours of 9:30 a.m. and 2:30 p.m. and between 6:00 pm and Midnight.
 - (b) All tanks, valves and other mechanical components associated with the storage of the propane shall be enclosed within a 10-foot high chain link fence topped with razor wire.
 - (c) The entrance for the storage area shall be through a secured gated entrance.
 - (d) A knowledgeable employee must be on site within 15 minutes in the case of any Department of Fire and Emergency Services response to the site. A suprabox shall be installed to allow emergency services personnel access.
 - (e) The transfer area shall be equipped with sensors to detect possible propane leaks. The alarm system shall be connected to an appropriate alarm company, who will contact the Fauquier County Communications Center to allow immediate dispatch of fire, rescue and police equipment to the site. The alarm system will comply with fire prevention codes and be equipped with battery backup.
 - (f) The monitoring and alarm systems shall be tested in accordance with the fire

prevention code. Any violation of the fire prevention code, which would result in criminal charges being brought against the applicant, shall be deemed to be a violation of the conditions of this special permit.

- (g) The applicant shall retain a consultant approved by the Department of Community Development to ensure compliance with all local zoning and building codes and state and federal regulations regarding the storage and transportation of propane. The consultant shall be available for the entire length of the construction phase.
- (h) The storage area shall be screened by 25 feet off the property line with two staggered rows of evergreens from adjacent single family dwelling units.
- (i) A maximum of 50 new 102,000 gallon propane tanks may be installed on the site.
- (j) No propane tanks or valves shall be installed within 150 feet from the centerline of the mainline of the railroad.
- (k) An emergency preparedness or response plan must be submitted and approved by the Fire Chief prior to a certificate of occupancy.
- (l) A community service and education program must be submitted and approved by the Fire Chief prior to a certificate of occupancy. This program should include information about the emergency response plan and when residents or businesses should call 911 due to odors.
- (m) At a minimum facility must be constructed in accordance with NFPA58 as adopted by Commonwealth of Virginia.
- (n) Applicant agrees to donate 4 handheld propane detectors of the following specifications; dual range combustible gas detectors calibrated for propane vapor within the ranges of 0 to LFL to 0% to 100% to the Department of Fire and Emergency Services.
- (o) The applicant shall work with the Fire Chief to provide periodic on-site preplanning exercises for the responding fire companies and other responders. Included in such exercises shall be the demonstration or familiarization of critical valves and controls that may prove useful to the responders.
- (p) A list of qualified facility personnel and their telephone numbers shall be maintained on file with the alarm company and with the Department of Fire and Emergency Services.
- (q) Prior to the delivery of propane tanks over 100 feet long the facility shall phone the non-emergency number for Norfolk Southern railroad to obtain the schedule of trains.

The chairperson asked for discussion.

Mr. VanLuven asked to discuss item b to substitute barbed wire rather than razor wire and there was discussion.

Mr. VanLuven made a motion to amend item b to read barbed wire and Mr. Meadows seconded the motion.

The motion to amend carried 6 Ayes, 1 Abstain.

The chairperson asked for discussion.

Mr. Lofdahl asked to discuss item c due to NFPA 58 requiring two gated entrances to the storage area and both should be gated and secured and there was discussion.

Mr. Lofdahl made a motion to amend item c to read all entrances and Mr. Meadows seconded the motion.

The motion to amend carried 6 Ayes, 1 Abstain.

SPECIAL PERMIT #50887 JOHN P. SIFRIT & HEATHER P. SIFRIT (OWNERS)

Applicants are requesting a special permit to locate a small contracting business on the property, identified as PIN #6945-36-1395, located at 7017 Catbird Lane, Marshall District, Marshall, Virginia.

Mr. Hodge reviewed the staff report, a copy of which is attached to and made a part of the minutes. He read a letter from Mrs. Sifrit asking for a 60-day continuance due to illness.

On motion made by Mr. Meadows and seconded by Mr. Tufts, in application No. 50887, it was moved to continue the application for 60 days.

The motion carried 6 ayes, 1 Abstain.

SPECIAL PERMIT #50894 AMERICAN LEGION POST 360 (OWNER)

Applicants are requesting a special permit to locate a meeting hall on the property, identified as PIN #6994-10-6814, located on Frytown Road, Center District, Warrenton, Virginia.

Mr. Hodge stated that the BZA made a site visit was made this morning and reviewed the staff report, a copy of which is attached to and made a part of the minutes.

Mr. VanLuven asked if there was going to be more than one entrance and Mr. Gary Pearson, attorney, stated no.

Mr. Pearson stated the American Legion had been meeting at various places and has not ever had a home.

Mr. VanLuven asked if American Legion Post 360 has approached American Legion Post 72 to use their facility.

Mr. John Williams stated they have not approached Post 72.

Mr. VanLuven asked if there would be sufficient parking and Mr. Rick Ashley stated there is ample area to grade for parking and overflow parking.

Mr. VanLuven asked if there would be fundraising activities and Mr. Williams stated no.

Mr. VanLuven asked if the members would be able to use the facility and if a liquor license would be obtained. Mr. Williams stated they do not have functions with the use of alcohol and there would be custodians at the meetings and functions to maintain the rules.

Mr. VanLuven stated his concern about no street lights for evening meetings and Mr. Williams stated there would be low level lighting for off road parking.

Mr. Lofdahl stated the use seems to be compatible, however he is concerned about the road.

Mr. Tufts stated the primary concern is safety and the application of the February meeting stated two events and in the March meeting the Legion wanted four.

On motion made by Mr. VanLuven and seconded by Mr. Meadows for the purpose of discussion, in application No. 50894, it was moved to deny the special permit based on the Board's findings, after due notice and hearing, as provided by the Code of Virginia Section 15.2-2204 and Section 5-009 of the Fauquier County Code:

1. The proposed use will adversely affect the use or development of neighboring properties.
2. It is not in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does not conform to the general standards set forth in Section 5-006(1) through (9) of the Zoning Ordinance of Fauquier County, which sections are incorporated in this Motion as if fully set forth.
3. The use will not be compatible with the neighborhood in which it is to be located.
4. The application does not comply with the specific standards which apply to the use in question, namely:
 - a. traffic problems
5. The applicant has other reasonable use of his property.

The motion carried 4 Ayes, 1 Nay, and 2 Abstains.

SPECIAL PERMIT #50998 GARY E. HURST, SR. & JANE M. HURST (OWNERS)

Applicants are requesting special permit approval to construct a single family dwelling unit 37.5 feet in height wherein the Zoning Ordinance permits a maximum height of 35 feet in the Rural Agriculture Zoning District, identified as PIN #6976-45-8936, located on Route 17, Marshall District, Warrenton, Virginia.

Mr. Hodge stated that the BZA made a site visit was made this morning and reviewed the staff report, a copy of which is attached to and made a part of the minutes.

Mr. and Mrs. Hurst appeared at the meeting representing their special permit and agreed with the staff report.

No one spoke in favor or against the application.

On motion made by Mr. Tufts and seconded by Mr. Rohrbaugh, in application No. 50998, it was moved to approve the special permit based on the Board's findings, after due notice and hearing, as provided by the Code of Virginia Section 15.2-2204 and Section 5-009 of the Fauquier County Code:

1. The proposed use will not adversely affect the use or development of neighboring properties.
2. It is in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does conform to the general standards set forth in Section 5-006(1) through (9) of the Zoning Ordinance of Fauquier County, which sections are incorporated in this Motion as if fully set forth.
3. The use will be compatible with the neighborhood in which it is to be located.
4. The application does comply with the specific standards which apply to the use in question.

PART 24

5-2400

STANDARDS FOR APPROVING AN INCREASE IN BUILDING HEIGHTS

5-2401

The BZA may approve a special permit for an increase in height above the maximum building height regulations specified in Part 4 of Article 3, if it determines that such an increase would not violate the general standards set forth in Section 006 above. Further, the minimum yard requirements applicable to the structure shall be increased by two (2) feet for every one (1) foot of increase in height in excess of the maximum building height set forth for the zoning district.

5. The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses as are deemed necessary in the public interest to secure compliance with the

provisions of this Ordinance: (Conditions including, but not limited to, those recited in Section 5-007 A-L of the Zoning Ordinance)

(a) increase the building height by 2.5 feet

The motion carried unanimously.

ADJOURNMENT: There being no further business before the Board, the meeting adjourned at 3:45 P.M.

Margaret Mailler, Chairman

John Meadows, Secretary

Copies of all files and materials presented to the Board are attached to and become a part of these minutes. A tape recording of the meeting is on file for one year.

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